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Applicant : Jay Paul White
Serial No. : 09/338,744
Filed : June 23, 1999
Title : GLOBAL POSITIONING SYSTEMS APPLICATIONS

Art Unit : 2632
Examiner : B. Lee

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Washington, D.C. 20231

REPLY BRIEF ON APPEAL

A reply is warranted in view of several of the assertions made in the Examiner's Answer.

1. The Examiner's Answer argues that Loomis teaches that assets could be located at any location, whether it be "defined storage locations" or "undefined storage locations" (page 4, paragraph 1). That is a mischaracterization of the reference, which is almost exclusively concerned with the details of how the GPS system works, and gives only the briefest list of possible applications for the system. Only one application in that short list has any relevance (col. 8, lines 28-33):

Asset Management: A customer assigns an asset code to each piece of equipment, and uses the system to locate it all and create data for asset management, inventory management, logistics and asset tracking systems.

This vague suggestion of using GPS for asset management does not teach what is called for by the claims on appeal, which specifically require (claim 19; claim 33 has very similar language):

storing items in a storage facility, wherein the storage facility is a warehouse or other facility in which the items are stored in defined storage locations such as shelves or bins.

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Thus, it is not accurate for the examiner to say that Loomis teaches that assets could be located at defined storage locations.

2. The Examiner's Answer goes on to argue (page 4, paragraph 1, emphasis added):

[T]hese articles to be monitored would have to be located somewhere in the building. And therefore, if the article is on the floor or on a shelf of a room, its location and identity could be monitored.

The law looks at what a prior art reference actually teaches, not what could be done with the system it teaches.

3. The Examiner's Answer (page 4, paragraph 1) argues that Hertel makes up for anything missing in Loomis because Hertel teaches that facilities with defined storage locations are known. Applicant does not dispute that such facilities are known. Applicant is not claiming that he invented warehouses. But the mere fact that warehouses and other facilities with defined storage locations existed did not make it obvious to apply a GPS system to them in the manner called for by the claims.

4. The Examiner's Answer incorrectly summarizes one of applicant's arguments. The second numbered item in the examiner's summary of applicant's argument reads as follows (page 4, lines 1-3):

2. Appellant argues that Loomis fails to teach the use of bar code scanner, and fails to teach with sufficient definiteness the use of a bar code symbol to identify the items being stored.

The examiner is only half right. Applicant (appellant) does not dispute that Loomis teaches the use of a bar code scanner connected to a GPS unit (col. 7, line 47). What applicant disputes is that Loomis teaches the use of a bar code scanner for the purpose required in applicant's claims (the first group of claims, 19, 22, 25-32). Applicant's claims (first group) call for "determining the identity of the item from scanning a symbol associated with the item". Loomis does not teach that use of a bar code scanner. The reference to a bar code scanner is extremely vague, and it is simply not clear to what use the scanner is to be put.

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5. The examiner correctly points out (Answer, page 5, lines 2-3) that Loomis teaches (col. 7, lines 12-16) that item identity is combined with GPS time and location data. But the examiner incorrectly assumes, without support in the reference, that item identity is determined using a bar code scanner. Not surprisingly, the examiner does not point to any portion of Loomis that supports this conclusion. There is none. The reference to a bar code scanner comes later on (col. 7, line 47), and no connection is made back to the suggestion (col. 7, lines 12-16) that item identity be combined with GPS time and location data.

In short, the Examiner has not made out a case for obviousness. The rejection should be reversed.

The \$150.00 fee for this reply brief is enclosed herewith. Please apply any further charges, or credits, to our Deposit Account No. 06-1050.

Respectfully submitted,

Date: January 22, 2002

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